

Enacted Legislation Since *Kelo*

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Alabama

AL SB 68

Senate Bill 68 prohibits cities and counties from using eminent domain for private development or for enhancing tax revenue, but it creates an exception that allows seizure of so-called "blighted" properties so that they can be turned over to private interests.

Sponsored by: State Senator Jack Biddle

Status: Signed into law on August 3, 2005.

Release: With Governor's Signature Today, Alabama Will Become First State To Curb Eminent Domain Abuse After *Kelo* (August 3, 2005)

AL HB 654

House Bill 654 closes the loophole of SB 68 by changing the criteria necessary to designate property as blighted, so that only those properties with significant structural or other problems can be acquired and then given to a private developer.

Sponsored by: State Representative Thad McClammy

Status: Signed into law on April 25, 2006.

Alaska

AK HB 318

House Bill 318 prohibits private transfers for economic development, unless the legislature authorizes it. Residential property cannot be taken for "recreational facilities or projects" (including trails), unless the legislature authorizes it.

Sponsored by: State Representative Eric Croft

Status: Signed into law on July 5, 2006.

Release: Alaska Enacts Eminent Domain Reform; Further Reform Needed to Close Loopholes (July 6, 2006)

Arizona

AZ Proposition 207

Requires a condemning authority to prove by "clear and convincing evidence" that a property is maintained in a slum condition; eminent domain can only be used on a property-by-property basis. It also prohibits the use of eminent domain for economic development and includes compensation for regulatory takings.

Sponsored by: Citizen initiative

Status: Passed by voters on November 7, 2006.

Release: Tempe Property Owners Score Victory Over Eminent Domain Abuse (September 13, 2005)

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

California

CA SB 53

The 2006 package of five bills signed into law do very little to hinder the rampant abuse of eminent domain in the state. Senate Bills 53, 1206, 1210, 1650 and 1809 create a few additional hoops for condemning authorities to jump through, such as requiring more details about the proposed use and additional findings of blight when extending time limits, and adding more hearing requirements.

Sponsored by: State Senator Christine Kehoe

Status: Signed into law on September 29, 2006.

CA SB 1206

Senate Bill 1206 comes the closest to addressing California's broad definition of "blight." Unfortunately, the bill did not sufficiently narrow the definition to only include properties that are an immediate threat to public health and safety, nor did it require the designation of blight on a property-by-property basis.

Sponsored by: State Senator Christine Kehoe

Status: Signed into law on September 29, 2006.

CA SB 1210

Sponsored by: State Senator Tom Torlakson

Status: Signed into law on September 29, 2006.

CA SB 1650

Sponsored by: State Senator Christine Kehoe

Status: Signed into law on September 29, 2006.

CA SB 1809

Sponsored by: State Senator Michael Machado

Status: Signed into law on September 29, 2006.

Colorado

CO HB 1411

House Bill 1411 redefines "public use" as it applies to the government's power of eminent domain. The bill still allows for the acquisition of properties that meet the definition of blight, but changes the burden of proof necessary to take property for eradication of blight to clear and convincing evidence. There is a prohibition on takings for economic development or enhancement of tax revenue. Public use is otherwise determined by the courts.

Sponsored by: State Representative Al White

Status: Signed into law on June 6, 2006.

Release: Colorado Enacts Eminent Domain Reform; Property Owners Provided with Increased Protection from Abuse (June 7, 2006)

Connecticut

CT SB 167

Instead of eliminating or even limiting condemnations for economic development, Senate Bill 167 merely requires that an increase in taxes cannot be the "primary purpose" of the taking. The project would need "super-majority" approval by the municipal governing body, but the legislation does nothing to address Connecticut's broad "urban renewal" or "blight" law.

Sponsored by: State Senate Judiciary Committee

Status: Signed into law on June 25, 2007.

Release: Governor Rell's Eminent Domain Proposals Won't Protect Connecticut Homeowners; Institute for Justice Urges Connecticut Legislature To Adopt REAL Eminent Domain Reform (February 8, 2007)

Delaware

DE SB 217

This bill simply requires that cities have a plan when condemning property and that the condemnations are for a "recognized public use as described at least six months in advance of the institution of condemnation proceedings," which under *Kelo* includes private economic development.

Sponsored by: State Senator Robert Venables

Status: Signed into law on July 21, 2005.

Florida

FL HB 1567

House Bill 1567 passed the legislature with overwhelming support and requires localities to wait 10 years before transferring land taken by eminent domain from one owner to another—effectively eliminating condemnations for private commercial development. HB 1567 also forbids the use of eminent domain to eliminate so-called "blight," instead requiring municipalities to use their police powers to address properties that actually pose a danger to public health or safety. It prohibits eminent domain abuse while still allowing

the government to condemn property for traditional public uses such as roads, bridges, and government buildings.

Sponsored by: State Representative Marco Rubio

Status: Signed into law on May 11, 2006.

Release: Florida Enacts Meaningful Eminent Domain Reform, Bill One of Strongest Passed Nationwide (May 12, 2006)

FL HJR 1569

The Florida Legislature also put a constitutional amendment on the November ballot that passed overwhelmingly. The amendment requires a three-fifths majority in both legislative houses to grant exceptions to a State constitutional prohibition on eminent domain for private use.

Sponsored by: State Representative Marco Rubio

Status: Passed by the legislature on May 4, 2006. Approved by voters on November 7, 2006.

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

Georgia

GA HB 1306

House Resolution 1306 is a constitutional amendment that was approved by the voters, and now requires that before eminent domain is used for redevelopment, it must be voted on by elected officials.

Sponsored by: State Representative Jeff May

Status: Passed by the legislature on April 4, 2006. Approved by voters on November 7, 2006.

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

GA HB 1313

House Bill 1313 significantly tightens the definition of "blight" in the State's eminent domain laws. The bill creates objective standards of blight and requires that individual parcels, as opposed to areas, be designated as "blighted" in order to be subject to condemnation for private development. It emphasizes, "Property shall not be deemed blighted because of esthetic conditions." The bill also provides that economic development is not a "public use" that justifies the use of eminent domain. It is now the government's burden to show that a piece of property is "blighted." Now property can only be designated "blighted" if it meets two of six objective factors and "is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property."

Sponsored by: State Representative Rich Golick

Status: Signed into law on April 4, 2006.

Release: Georgia Enacts Meaningful Eminent Domain Reform; But Companion Constitutional Amendment Provides Little Enhanced Protection (April 4, 2006)

Idaho

ID HB 555

House Bill 555 adds to existing law by providing limitations on eminent domain for private parties, urban renewal, or economic development purposes. Unfortunately, there are several loopholes that need to be closed, including for "those public and private uses for which eminent domain is expressly provided in the constitution of the State of Idaho." The Idaho Constitution says "any ... use necessary to the complete development of the material resources of the state, or the preservation of the health of its inhabitants, is hereby declared to be a public use."

Sponsored by: House Committee on State Affairs

Status: Signed into law on March 21, 2006.

Illinois

IL SB 3086

Senate Bill 3086 prohibits seizing property for private development unless it is in a blighted area and the proposed use is consistent with a regional plan adopted within the past five years. The legislation allows for condemnation for private development if economic development is a secondary purpose to urban renewal "to eliminate an existing affirmative harm on society from slums to protect public health and safety." It prohibits seizing property used for "production agriculture" for private development and places the burden of proof for blight on the government.

Sponsored by: State Senator Susan Garrett

Status: Signed into law on July 28, 2006.

Indiana

Indiana created a state commission to study the use of eminent domain and ways of reining in abuse.

IN HB 1010

House Bill 1010 provides meaningful protection against eminent domain abuse. The bill, which sailed through both legislative houses with overwhelming support, redefines "public use" and provides objective criteria for the acquisition of property in most situations, though there is an exception for certified technology parks.

Sponsored by: Representative David Wolkins

Status: Signed into law on March 24, 2006.

Release: Indiana Enacts Common Sense Eminent Domain Reform (March 27, 2006)

Iowa

IA HF 2351

House File 2351 changes the blight designations to a property-by-property basis (unless an Urban Renewal Project area has 75 percent blight, then the remaining 25 percent could be taken even if it contains non-blighted property) and requires blight to be proven by clear and convincing evidence. The governor vetoed this bill even after strong support in both houses, but the legislature returned for a special session and overwhelmingly overrode the veto.

Sponsored by: State Senator Bob Brunkhorst

Status: Governor veto overridden on July 14, 2006.

Release: Iowa Legislature Overrides Eminent Domain Reform Veto; Historic Event Secures Greater Property Protection (July 14, 2006)

Kansas

KS SB 323

Senate Bill 323 prohibits property from being acquired and transferred from one private owner to another except in certain very narrow circumstances (such as for utilities or in instances where the property has defective title or is objectively unsafe) or when the legislature itself expressly authorizes the taking. Blight designations are only for unsafe property and must be made on parcel-by-parcel basis. While the bill's important provisions are not effective until 2007, under the new law, municipalities are severely restricted in taking homes and businesses for the benefit of a private developer.

Sponsored by: State Senator Derek Schmidt

Status: Signed into law on May 18, 2006.

Release: Kansas, One of Nation's Worst Eminent Domain Abusers, Enacts Important Reform; Further Reform Needed to Close Loophole (May 19, 2006)

Kentucky

KY HB 508

House Bill 508 redefines "public use" under the State's eminent domain laws, but that includes a large loophole for the acquisition of so-called "blighted" and "slum" areas, which are defined so broadly that almost any property qualifies.

Sponsored by: State Representative Rob Wilkey

Status: Signed into law on March 28, 2006.

Louisiana

LA HB 707

House Bill 707 (Act 859, Constitutional Amendment No. 6) was passed by voters in September of 2006. Under the amendment, the condemning authority must identify surplus property within one year upon completion of a project and may not sell or lease condemned property for thirty years without first offering the property to the original owner, heirs, or successor in title at the current fair market value. If the offer to repurchase is rejected the property must be transferred by competitive bid.

Sponsored by: State Representative Rick Farrar

Status: Passed by the legislature on June 19, 2006. Passed by voters on September 30, 2006.

LA SB 1

Senate Bill 1 (Act 851, Constitutional Amendment No. 5) was passed by voters in September of 2006. Under the amendment, localities are prohibited from condemning private property merely to generate taxes or jobs. The amendment also reforms the State's blight laws to ensure that eminent domain can only be used for the removal of a threat to public health and safety caused by a particular property. All economic development and urban renewal laws currently on the Louisiana books are now required to conform to the new constitutional limitations.

Sponsored by: State Senator Joe McPherson

Status: Passed by the legislature on May 31, 2006. Approved by voters on September 30, 2006.

Release: Louisiana Sends Eminent Domain Reform to Voters, Constitutional Amendment Protects Homes and Businesses from Abuse (June 7, 2006)

Release: Louisiana Ratifies Eminent Domain Reform (October 4, 2006)

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

Maine

ME LD 1870

Legislative Document 1870 prohibits the use of eminent domain "for the purposes of private retail, office, commercial, industrial or residential development." It also says eminent domain may not be used "primarily for the enhancement of tax revenue" or to "transfer to a person, nongovernmental entity, public-private partnership, corporation or other business entity." Unfortunately, the bill's increased protections do not apply to the condemnation of property in areas that are designated as "blighted" based on the State's overly inclusive urban renewal and community development statutes.

Sponsored by: State Representative Deborah Pelletier-Simpson

Status: Signed into law on April 13, 2006.

Release: Vermont, Maine and Nebraska Enact Eminent Domain Reform, But More Reform is Needed in All 3 States (April 19, 2006)

Maryland

MD SB 3

Senate Bill 3 requires condemners to proceed within four years of authorization or the authorization expires. Additionally, the bill raises caps on various compensation arrangements.

Sponsored by: State Senator James DeGrange

Status: Signed into law on May 8, 2007.

Michigan

MI SJR E

The Michigan Legislature and state voters approved resolution Senate Joint Resolution E, prohibiting "the taking of private property for transfer to a private entity for the purpose of economic development or enhancement of tax revenues." Moreover, the amendment changes so-called "blight" law within the state. Although the amendment does allow for the taking of blighted parcels of property, the burden would now be on the government to demonstrate that a particular piece of property is blighted by clear and convincing evidence.

Sponsored by: State Senator Tony Stamas

Status: Passed by the legislature on December 13, 2005. Approved by voters on November 7, 2006.

Release: Michigan Legislature Approves Nation's First State Constitutional Amendment To Curb Eminent Domain Abuse Amendment to Go Before Voters Next Year (December 14, 2005)

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

MI HB 5817

House Bill 5817 raises the cap on moving expenses for individuals (but not businesses).

Sponsored by: State Representative Steve Tobocman

Status: Signed into law on September 20, 2006.

MI HB 5818

House Bill 5818 allows low-income individuals to recover attorney fees in an unsuccessful condemnation challenge.

Sponsored by: State Representative Leon Drolet

Status: Signed into law on September 20, 2006.

MI HB 5819

House Bill 5819 outlines the process of surrendering property.

Sponsored by: State Representative John Garfield

Status: Signed into law on September 20, 2006.

MI HB 5820

House Bill 5820 provides procedures for the exercise of eminent domain by public agencies or private agencies—to provide for an agency's entry upon land for certain purposes, to provide for damages, and to prescribe remedies.

Sponsored by: State Representative LaMar Lemmons III

Status: Signed into law on October 3, 2006.

MI HB 5821

House Bill 5821 contains guidelines for determining "just compensation."

Sponsored by: State Representative Bill McConico

Status: Signed into law on October 3, 2006.

MI HB 5060

House Bill 5060 and companion Senate Bill 693 amend the definition of public use to exclude economic development.

Sponsored by: State Representative Glenn Steil

Status: Signed into law on September 20, 2006.

MI SB 693

Sponsored by: State Senator Cameron Brown

Status: Signed into law on September 20, 2006.

Minnesota

MN SF 2750 (MN HF 2846)

Senate File 2750 explicitly prohibits municipalities from using eminent domain to transfer property from one owner to another for private commercial development. It also requires that so-called "blighted" properties be an actual danger to public health and safety to be condemned for private development. Non-blighted properties can be condemned only if they are in an area where the majority of properties are "blighted" and there is no feasible alternative to taking them to remediate the blighted properties. Unfortunately, SF 2750 exempts more than 2,000 Tax Increment Financing districts, many of which are in the Twin Cities, for up to five years. It also includes one-time exemptions for Richfield and Minneapolis.

Sponsored by: State Senator Thomas Bakk

Status: Signed into law on May 19, 2006.

Release: Historic & Diverse Coalition Calls for Eminent Domain Reform In Minnesota (January 5, 2006)

Release: Minnesota Enacts Meaningful Eminent Domain Reform; Legislation Exempts Some Municipalities for Up to 5 Years (May 19, 2006)

Missouri

MO HB 1944

House Bill 1944 continues to let cities use the current definition of blight, which relies on vague factors such as inadequate street layout, unsafe conditions, and obsolete platting. However, those designations must

now occur on a property-by-property basis, at least until a preponderance of the properties are blighted. Farmland is excluded from being declared blighted. Additionally, condemnation authority is now given *only* to elected bodies, not directly to developers or private entities. There is a requirement that land be acquired within five years of being declared blighted, and says land can not be condemned "solely" for economic development. The bill also established an Office of Ombudsman in the Office of Public Counsel within the Department of Economic Development, which will ostensibly serve to assist property owners that are under threat of eminent domain.

Sponsored by: State Representative Steve Hobbs

Status: Signed into law on July 13, 2006.

Release: Missouri Eminent Domain Reform Small Step in Right Direction; Legislature Still Needs to Close "Blight" Loophole (July 13, 2006)

Montana

MT SB 41

Senate Bill 41 only rearranges a few words in the laundry list of vague criteria necessary to declare an area blighted. The bill's language prohibiting the government from serving as a "pass through" for private beneficiaries, with a strong provision prohibiting the transfer of condemned property to a private entity for ten years, was amended to remove the time limit and add "intent" language, making it an easy provision to work around.

Sponsored by: State Senator Jim Elliot

Status: Signed into law on May 8, 2007.

MT SB 363

Senate Bill 363 addresses public use but fails to remove old, problematic definitions such as "and all other public uses authorized by the legislature of the state." The bill also attempts to limit the blight loophole by reducing the criteria that qualify an area as blighted, but "deterioration" and "age obsolescence" remain on the list. Other language in the bill purports to stop the use of eminent domain when its "purpose" is increased tax revenue. Like the "intent" language of SB 41, this provision will be easy to get around since local governments can always claim a different reason for acquiring property, and courts will not question that assertion.

Sponsored by: State Senator Christine Kaufman

Status: Signed into law on May 16, 2007.

Nebraska

NE LB 924

Legislative Bill 924 prohibits the use of eminent domain "if the taking is primarily for an economic development purpose." The prohibitions, however, do not apply to "public projects or private projects that make all or a major portion of the property available for use by the general public" The bill clarifies that agricultural property cannot be designated as "blighted" by local governments and therefore cannot be subject to condemnation.

Sponsored by: State Senator Deb Fischer

Status: Signed into law on April 13, 2006.

Release: Vermont, Maine and Nebraska Enact Eminent Domain Reform, But More Reform is Needed in All 3 States (April 19, 2006)

Nevada

NV AB 102

Assembly Bill 102 contains the public use definition from the citizen initiative, but with exceptions for blight and relocation of those displaced by highway projects. Unfortunately, AB 102 fifteen-year buy-back provision offers little protection because "use" is defined so broadly that the very act of planning the project or condemning the property qualifies.

Sponsored by: State Assemblyman William Horne

Status: Signed into law on May 23, 2007.

NV Question 2

"Public use shall not include the direct or indirect transfer of any interest in property taken in an eminent domain proceeding from one private party to another private party. In all eminent domain actions, the government shall have the burden to prove public use."

Sponsored by: Citizen initiative

Status: Approved by voters on November 7, 2006, must be approved again in November 2008.

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

NV AJR 3

Assembly Joint Resolution 3 proposes the language of AB 102 in a constitutional amendment. The bill passed this year and must be approved again in the 2009 Legislature. If approved a second time, the amendment would appear on the 2010 ballot. If the initiative passes in 2008, voters would decide in 2010 whether to replace the constitutional property rights protections of the initiative with language like that of AB 102.

Sponsored by: State Assemblyman Joseph Hardy

Status: Approved by the 2007 legislature, must be approved again by 2009 legislature and voters in 2010.

New Hampshire

NH SB 287

Senate Bill 287 was signed into law on the one-year anniversary of the *Kelo* decision. The bill does two important things with regard to redevelopment condemnations. First, it requires there to be something wrong with the actual property before eminent domain can be used. Second, it sets out explicit criteria of the conditions under which property can be taken.

Sponsored by: State Senator Bob Odell

Status: Signed into law on June 23, 2006.

NH CACR 30

CACR 30 is a constitutional amendment, passed by the voters, that says: "No part of a person's property shall be taken by eminent domain and transferred, directly or indirectly, to another person if the taking is for the purpose of private development or other private use of the property."

Sponsored by: State Representative Robert Giuda

Status: Passed by the legislature on April 20, 2006. Approved by voters on November 7, 2006.

Release: New Hampshire Enacts Meaningful Eminent Domain Reform; SB 287 Prohibits Kelo Takings and Tightens Definition of Blight (June 27, 2006)

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

New Mexico

NM HB 393

House Bill 393 removed the power of eminent domain from the state's Metropolitan Redevelopment Code, no longer allowing condemnations for blight. An exception was made for so-called "antiquated platting" issues in Rio Rancho, but that amendment was narrowly written and does not affect the heart of the reform.

Sponsored by: State Representative Peter Wirth

Status: Signed into law on April 3, 2007.

NM SB 401

Senate Bill 401 is a companion bill to House Bill 393.

Sponsored by: State Senator Steven Neville

Status: Signed into law on April 3, 2007.

Release: Institute for Justice Legal Expert Testifies Before New Mexico Eminent Domain Task Force (August 11, 2006)

North Carolina

NC HB 1965

House Bill 1965 repeals all laws allowing local condemnations for economic development (if a municipality wants to get eminent domain authority for economic development it will have to go through the General Assembly). Unfortunately, the bill did not change the definition of blight, although it does requires the designation to be parcel by parcel.

Sponsored by: State Representative Bruce Goforth

Status: Signed into law on August 10, 2006.

North Dakota

ND Measure 2

"For purposes of this section, a public use or a public purpose does not include public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health. Private property shall not be taken for the use of, or ownership by, any private individual or entity, unless that property is necessary for conducting a common carrier or utility business."

Sponsored by: citizen initiative

Status: Approved by voters on November 7, 2006.

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

ND SB 2214

Senate Bill 2214 amends the Century Code to reflect the changes made by Measure 2.

Sponsored by: State Senators Stanley Lyson, Joe Heitkamp, and Aaron Krauter

Status: Approved by voters on April 5, 2007.

Ohio

OH SB 167

Senate Bill 167 creates a moratorium through Dec. 31, 2006, on taking non-blighted areas when the primary purpose is economic development that will result in private transfer. If the law is violated, municipalities will lose public funding on the project.

Sponsored by: Senator Timothy Grendell

Status: Signed into law on November 16, 2005.

Release: Ohio Governor Signs Bill Imposing Eminent Domain Moratorium (November 16, 2005)

Release: Historic & Diverse Coalition Calls for Eminent Domain Limits In Ohio & Pennsylvania (November 30, 2005)

Release: Ohio Citizens Group Will Monitor State Task Force; "Buckeye Coalition" Calls for Meaningful Eminent Domain Reform (March 1, 2006)

Release: Ohio Eminent Domain Task Force Releases Initial Recommendations; Recommends Statewide Standard of "Blight" (April 3, 2006)

OH SB 7

Senate Bill 7 includes better notice for property owners when their land is under threat, as well as procedural and compensation changes. Unfortunately, SB 7 will not stop eminent domain abuse because it continues to allow a combination of subjective factors (such as age and obsolescence, dilapidation and deterioration, excessive density, faulty lot or street layout) to be used by condemning authorities to take property for private gain.

Sponsored by: State Senator Timothy Grendell

Status: Signed into law on July 10, 2007.

Release: Ohio Passes Weak Eminent Domain Reform, Property Owners Left Unprotected (June 29, 2007)

Oregon

OR Measure 39

"A public body as defined in ORS 174.109 may not condemn private real property used as a residence, business establishment, farm, or forest operation if at the time of the condemnation the public body intends to convey fee title to all or a portion of the real property, or a lesser interest than fee title, to another private party."

Sponsored by: Citizen initiative

Status: Approved by voters on November 7, 2006.

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

Pennsylvania

PA HB 2054

Agricultural property cannot be blighted unless the Agricultural and Condemnation Approval Board determines the exercise is necessary to protect the health and safety of the community.

Sponsored by: State Representative Glen Grell

Status: Signed into law on May 4, 2006.

PA SB 881

Senate Bill 881 prohibits the use of eminent domain "to take private property in order to use it for private enterprise." The "Property Rights Protection Act" significantly tightens the definition of "blight" in the State's eminent domain laws and places time limits on blight designations. Previously, the government could use blight studies dating back indefinitely to justify condemnations for private use. The bill unfortunately includes a glaring exception that allows certain municipalities (Philadelphia, Norristown, Pittsburgh, and Delaware County, among others) to condemn property in areas that have already been designated as "blighted" under the State's urban renewal laws, but they cannot impose new blight designations under the old definition of "blight."

Sponsored by: State Senator Jeffrey Piccola

Status: Signed into law on May 4, 2006.

Release: Historic & Diverse Coalition Calls for Eminent Domain Limits In Ohio & Pennsylvania (November 30, 2005)

Release: Pennsylvania Enacts Eminent Domain Reform; Some Municipalities Exempt from New Restrictions Until 2012 (May 5, 2006)

South Carolina

SC SB 1031

The legislature passed a proposed amendment to the State Constitution that specifically prohibits municipalities from condemning private property for "the purpose or benefit of economic development, unless the condemnation is for public use." It further requires that an individual property be a danger to public health and safety for it to be designated as "blighted," closing a loophole that enabled local governments to use eminent domain for private use under the State's previously broad blight definition. The amendment also removes provisions of the State Constitution that specifically allow several counties to use eminent domain for private uses.

Sponsored by: State Senator Chip Campsen

Status: Passed by the legislature on June 14, 2006. Approved by voters on November 7, 2006.

Release: South Carolina Legislature Sends Eminent Domain Reform to Voters, Constitutional Amendment Protects Citizens From Abuse (June 15, 2006)

Release: 2006 Election Wrap Up: Voters Overwhelmingly Passed Eminent Domain Reform (November 8, 2006)

South Dakota

SD HB 1080

House Bill 1080 prohibits eminent domain "for transfer to any private person, nongovernmental entity, or other public-private business entity." It also includes a seven-year buy-back option (right-of-first-refusal for the prior property owner).

Sponsored by: State Representative Larry Rhoden

Status: Signed into law on February 17, 2006.

Release: South Dakota Enacts Meaningful Eminent Domain Reform; First State to Tackle the 'Heart of the Issue' (February 27, 2006)

Tennessee

TN HB 3450/SB 3296

House Bill 3450/Senate Bill 3296 slightly improves the definition of blight and provides additional notice during the condemnation process. HB 3450 defines public use for purpose of eminent domain of private property, permits governmental entities to transfer property no longer being used for a public use to another public or private entity under certain circumstances and removes the right of eminent domain from certain entities.

Sponsored by: State Representative Joe Fowlkes

Status: Signed into law on June 5, 2006.

TN HB 3700

Previously, the law required notice to be given by publication once per week for three consecutive weeks including a map of the affected area. House Bill 3700 requires only that the map be available for review in at least two locations, one of which would be the offices of the authority. The law previously prohibited an authority from initiating any redevelopment project until the governing body approved. HB 3700 removes the requirement for approval by the governing body of the affected county, except in situations where the redevelopment plan includes a tax increment financing provision applicable to the county property tax levy.

Sponsored by: State Representative Joe Armstrong

Status: Signed into law on June 27, 2006.

Texas

TX SB 7

Senate Bill 7 says the government or a private entity may not take property if doing so confers a private benefit, is pretextual, or is for economic development (unless economic development is secondary to the main objective of eliminating real blight). The prohibitions do not apply to utilities, port authorities and other specific agencies, or sports and community venue projects voted on prior to December 1, 2005. There is no deference to a condemning authority's determination of public use.

Sponsored by: State Senator Kyle Janek

Status: Signed into law on September 1, 2005.

Release: Texas Governor Vetoes Eminent Domain Reform; All Texans Remain Vulnerable to Abuse (June 18, 2007)

Utah

UT SB 117

Senate Bill 117 builds on the strong reforms of Senate Bill 1841 (2005), that passed just before *Kelo* and removed the power of eminent domain from redevelopment agencies. SB 117 requires that the appropriate legislative body approve the taking of property by eminent domain. Also requires the governing body of a political subdivision intending to take property by eminent domain to provide written notice to property owners of each public meeting to approve the taking and to allow property owners the right to be heard regarding the proposed taking.

Sponsored by: State Senator Howard Stephenson

Status: Signed into law on March 21, 2006.

UT HB 365

House Bill 365 rolled back the state's prior eminent domain reform. The bill allows local governments to take private property for blight and allows property owners who own a large majority of property (in size or

value) to vote to force out neighbors who want to keep their homes or small businesses. That means property owners who merely want to be left alone to enjoy what is rightfully theirs are exposed to abuse.

Sponsored by: State Representative Stephen Urquhart

Status: Signed into law on March 20, 2007.

Release: Utah Guts Eminent Domain Reform (March 21, 2007)

Vermont

VT S 246

Senate Bill 246 prohibits the use of eminent domain where "the taking is primarily for purposes of economic development" or confers a private benefit on a particular private party.

Sponsored by: State Senator Wendy Wilton

Status: Signed into law on April 14, 2006.

Release: Vermont, Maine and Nebraska Enact Eminent Domain Reform, But More Reform is Needed in All 3 States (April 19, 2006)

Virginia

VA HB 2954

House Bill 2954 requires that private property be seized for only traditional "public uses," like roads, schools and post offices. Importantly, it also tightens the Housing Authorities Law's definition of "blight." Local governments can still acquire properties that pose a real threat to public health or safety, but perfectly fine homes and businesses can no longer be seized using vague and subjective criteria like "deteriorated" and "dilapidated," nor can they be seized because they happen to sit within "blighted" areas.

Sponsored by: State Delegate Rob Bell

Status: Signed into law on April 4, 2007.

VA SB 781

Mirrors HB 2954.

Sponsored by: State Senator Ken Cuccinelli

Status: Signed into law on April 4, 2007.

VA SB 1296

Mirrors HB 2954.

Sponsored by: State Senator Thomas Norment

Status: Signed into law on April 4, 2007.

Release: Virginia Enacts Meaningful Eminent Domain Reform; Property Owners Have Real Protection Against Abuse (April 5, 2007)

Washington

WA HB 1458

House Bill 1458 was filed in response to Washington Supreme Court decisions holding that state and local governments could provide notice, on an obscure government website, of the public meeting where a final decision to condemn property would be made. Public meetings are vitally important because it is the sole opportunity a property owner has to provide evidence that his or her property is not necessary for the government's purported public use.

Sponsored by: State Representative Kevin Van De Wege

Status: Signed into law on April 4, 2007.

West Virginia

WV HB 4048

House Bill 4048 increases the government's burden when seizing non-blighted private property by eminent domain in so-called "blighted" areas. Cities must prove each individual structure is blighted. The legislation preserves all eminent domain powers but makes certain entire neighborhoods cannot be swooped up as blighted.

Sponsored by: Delegate Kevin J. Craig

Status: Signed into law on April 5, 2006.

Release: West Virginia Takes Step in the Right Direction; Still Long Way to Go for Real Eminent Domain Reform (April 5, 2006)

Wisconsin

WI AB 657

Assembly Bill 657 prohibits the government from condemning non-blighted private property for private use. It also requires a property to be blighted in order to be condemned instead of allowing large areas to be taken if some of the properties are blighted. The bill provides increased protection for residential properties by adding new factors to the legal definition of "blight." Specifically, the law requires that residential property be "abandoned" or converted from single to multiple units and be in a high-crime area in order for it to be designated "blighted."

Sponsored by: State Representative Mary Williams

Status: Signed into law on March 30, 2006.

Release: Wisconsin Increases Protection for Homes and "Non-Blighted" Property; Blight Definition, However, Needs Work (March 31, 2006)

Wyoming

WY HB 124

Under House Bill 124, state, counties, and municipal corporations now may condemn only for public purpose, defined as "the possession, occupation and enjoyment of the land by a public entity." Private transfer is prohibited except for "condemnation for the purpose of protecting the public health and safety," and that condemnation is on a property-by-property basis. Municipalities are no longer allowed to delegate away condemnation authority, and if condemned property has not experienced "substantial use" ten years after the taking, the former owner may apply to the court to repurchase the property for the amount of the original compensation.

Sponsored by: State Joint Agriculture, Public Lands, and Water Resources Interim Committee

Status: Signed into law on February 28, 2007.

U.S. Congress

US HR 3058

Makes appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes. Sec. 726 includes that: (1) no funds shall be used to support federal, state, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for a public use; (2) public use shall not include economic development that primarily benefits private entities.

Sponsored by: Amendment (see pages 99 - 100) by New Jersey Representative Scott Garrett

Status: Became law on November 30, 2005; extended through November 2006.

Release: U.S. House of Representatives Passes Meaningful Eminent Domain Reform, Legislation Now Heads to Senate (November 3, 2005)

Release: U.S. Senate Eminent Domain Reform Deadline Tomorrow; Time is Running Out For Federal Government to Stop Funding Abuse (September 29, 2006)

Release: One Year After Kelo: Home and Small Business Owners to U.S. Senate: Stop Funding Eminent Domain Abuse (June 22, 2006)